

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

**THE LUTHERAN CHURCH – MISSOURI
SYNOD, a Missouri nonprofit corporation
Plaintiff,**

V.

**DONALD CHRISTIAN, CHRISTOPHER
BANNWOLF, CONCORDIA
UNIVERSITY TEXAS, INC., & JOHN
DOES 1-12**
Defendants

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§ **Case No. 1:23-cv-1042-DAE**
§ **[Consolidated with 1:24-cv-00176-DAE]**
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DECLARATION OF DR. DONALD CHRISTIAN

I, Dr. Donald Christian, declare and state as follows:

1. I am the President of Concordia University Texas (“CTX”), a Texas nonprofit corporation of Lutheran higher education that subscribes to the Confession of the Lutheran Church – Missouri Synod (“LCMS”). I was named the Chief Executive Officer and Interim President of Concordia in August of 2014, assuming the position of President in 2015. Prior to that, I served 9 years as the Dean of the College of Business at CTX. I am over 18 years of age, of sound mind, and capable of making this declaration. I make this declaration in support of CTX’s Motion for Protective Order. The facts stated herein are based upon my own personal knowledge and are true and correct.

2. CTX is a Christian liberal arts university where the mission of the university is rooted in its Lutheran theology, history and practice. Our framework for educating students is based in the Lutheran Learning Model made up of six elements: Theology of the Cross; God's Sovereignty and Human Finitude; Two Kingdoms; Paradox and Dialogue; Vocation; and Freedom. The mission calls for all students to encounter Christ and explore their identities through a faith lens. Employees

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of the University must be supportive of this mission of providing an education where Christ is honored, and all are welcome.

3. The President of CTX must be a member in good standing of an LCMS congregation. The President is considered to bear the mantle of a spiritual leader of the campus, and understand and articulate the theology of, history and practice of the LCMS, especially in relation to higher education. The President must commit to and support Article II of the Synod Constitution, ensure that the five areas of Concordia's Demonstration of Lutheran Identity are lived out on campus by faculty and staff, and report to the Board on the university's alignment with the LCMS. The President may lead chapel at the University. In its confidential search for a president to succeed me, the Board of Regents is applying these qualifications and duties (among others) to best determine who is selected as Concordia's next president.

4. I lead CTX supported by a leadership team that includes the Provost/Executive Vice President among other leaders on campus. The leadership team is responsible for accomplishing the desired outcomes of the board and operating the University in accordance with board policy, including its Lutheran mission. In our meetings, emails, text messages, and other formal and informal communications, the leadership team discusses sensitive matters concerning the foregoing, CTX's leadership and governance, how CTX demonstrates faithfulness to its Lutheran identity, and how it will live out its calling as a Christian university through its faculty and staff, service to its students, and engagement with LCMS churches, schools, districts and organizations.

5. I, and other members of the leadership team that I delegate matters to, communicate with members of CTX's Board of Regents through presentations, reports and discussion in our board meetings. I communicate with members of the CTX Board of Regents via emails, text messages, and other formal and informal communications. Maintaining the privacy and confidentiality of

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these internal communications and the discussions of the Board of Regents is crucial to the openness, frankness, and effectiveness of the decision making of the board and leadership of CTX, as we each fulfill our duties to the institution.

6. On November 8, 2022, CTX's Board of Regents voted to amend its Charter, Bylaws, and Handbook to remove itself from the authority of the LCMS. I was present at that meeting of the Board of Regents. By approved motion, the vote to amend the documents was conducted by secret ballot. Jim Cleary, Vice Chairman of the Board and acting secretary at the meeting, collected and reviewed the anonymous paper ballots of Regents physically present in the room. Those Regents who attended the meeting remotely either submitted their vote to Jim Cleary via electronic chat in the Zoom meeting application or via email. After that meeting, Regents Nathan Hill and Tom Zachman resigned from the Board.

7. Also present at the November 8, 2022 meeting were attorneys retained by CTX who advised the organization on amending its governing documents. CTX's attorneys prepared draft amendments for the Board to consider. Prior to amending its governing documents, CTX was in protracted negotiations regarding its relationship with LCMS and its synodical counterpart Lutheran Church – Missouri Synod, the association of Lutheran Congregations ("Synod"). CTX was aware that litigation regarding CTX's decision to amend its governing documents would likely ensue with the LCMS and/or Synod as early as February 25, 2022. Prior to and following the Board vote on November 8th, CTX's Officers and Board of Regents prepared documents and engaged in communications in preparation for potential litigation. I and Provost/Executive Vice President Kristi Kirk are authorized to communicate with legal counsel for CTX on behalf of CTX. My communications with Board members regarding the decision to amend CTX's governing documents frequently included legal advice provided to CTX by its attorneys. Communications

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between myself and Board members before and after that vote are likely to contain advice from CTX's attorneys or work prepared in anticipation of this litigation.

8. Similarly, on April 4, 2023, CTX's Board of Regents voted to reaffirm its November 8th decision to amend its governing documents. I was present at that meeting. By motion passed by the Board, the vote on whether to reverse the November 8, 2022 changes made to its charter, bylaws and policy manual was conducted by secret ballot. After that meeting, Regents Alan Taylor and Bob Ssekyanzi resigned from the Board. Also present at that meeting were CTX's attorneys who advised CTX on the organization maintaining the amendments to its governing documents. My communications with Board members regarding the vote affirming the decision to amend CTX's governing documents frequently included legal advice provided to CTX by its attorneys. Communications between myself and Board members before and after that vote are likely to contain advice from CTX's attorneys or work prepared in anticipation of this litigation.

9. On April 29, 2022, the CTX Board of Regents voted to amend the purpose clause of its charter in order obtain its own 501(c)(3) tax exempt designation. I was present at that meeting. Also present at that meeting was CTX's attorney who advised CTX on the amendment.

10. Forcing members of CTX's Board, myself, or members of CTX's leadership team to disclose these internal, private, confidential discussions undermines CTX's ability to timely and freely communicate about important faith-based and governance matters concerning the institution, and will impact its decision making and effectiveness. If current or former members of the Board of Regents are subject to court orders to produce electronic communications, I will rely less on electronic mail, text messages, or app-based messaging to communicate with members of the Board and with CTX's leadership team. Similarly, if current or former members are subject to court orders to produce notes of our Board meetings, I will feel less likely to freely share my

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thoughts with board members or to take notes of our discussions for further contemplation. Fear that the content of our debates, discussions, and decision-making processes will be made available through Court processes to legal adversaries will dramatically affect the speed and ease with which members of the Board of Regents are able to develop and decide on matters of institutional governance and polity.

11. Moreover, requiring disclosures of documents, communications, and notes of Board of Regents decisions that have been controversial, such as the decisions to amend CTX's bylaws, to seat new Regents, and not to seat Regents selected by LCMS, will identify the opinions and votes of individual board members opening them to reprisals for their efforts to govern CTX. For instance, if the officer or board member is an ordained or commissioned minister of the LCMS, production of these documents to LCMS could expose them to hostile receptions from colleagues in the church who disagree with their decisions, and potentially disciplinary action from their ecclesiastical supervisor, and/or expulsion from the LCMS. It could also have a chilling effect on, if not deter, the willingness of other ordained and/or commissioned ministers of the LCMS from serving on the CTX Board of Regents.

12. In fact, in its 7-03 resolution passed in April of 2023, the LCMS in convention encouraged "the appropriate ecclesiastical supervisors to investigate and to determine any appropriate disciplinary action that should be taken against the CTX president and any member of the CTX [Board of Regents] who is a rostered church worker," and called upon the President and CTX administrators "who have advocated for and supported the purported separation, and the CTX [Board of Regents] ... to apologize publicly for the illegitimate and wrongful purported separation."

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13. Additionally, it is very likely that documents and communications possessed by current and former regents regarding the decision to amend CTX's governing documents, to seat regents, or other matters involving the relationship between CTX and LCMS, contain communications from CTX's attorneys advising organization of these topics and work done in preparation for this litigation. This includes legal advice CTX received from its attorneys concerning the withdrawal of CTX by Concordia Plans Services from the Concordia Retirement Plan, Concordia Disability and Survivor Plan, and other related plan offerings.

14. In addition to tuition and other sources of income, CTX relies on donor contributions for its financial well-being. LCMS is currently seeking communications between CTX's Board of Regents and donors. If the names of donors were released to LCMS through the court ordered production of documents, the donors could themselves be open to reprisals making them less likely to donate to CTX in pursuit of its mission.

15. On September 6, 2024, CTX, by and through its attorneys, issued a letter to former regents Alan Taylor, Nathan Hill, Tom Zachman, and Jim Cleary, other former Regents, and all current Regents, asserting privileges to the information contained in documents responsive to LCMS's requests. Alan Taylor, Nathan Hill, Tom Zachman, and Jim Cleary were present at the April 29, 2022 and November 8, 2022 Board Meetings. Alan Taylor, Bob Ssekyanzi, and Jim Cleary were present at the April 4, 2023 Board Meeting.

16. I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 12, 2024.

DocuSigned by:
By: Donald Christian
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Dr. Donald Christian